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VIA FEDERAL EXPRESS

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706

RE: Amendment to 83 Ill. Adm. Code 465

Dear Joint Committee on Administrative Rules:

Through this letter Commonwealth Edison Company ("ComEd") submits to the Joint Committee on Administrative Rules ("JCAR") these comments addressing the Illinois Commerce Commission's ("ICC") proposed amendments to its Net Metering Rules, 83 Ill. Adm. Code 465.¹ In particular, the proposed amendments to add Section 465.90 – Meter Aggregation conflicts with Section 16-107.5 of the Public Utilities Act ("PUA"), 220 ILCS 5/16-107.5, and would require non-meter aggregation customers to subsidize an alternative retail energy supplier's ("ARES") meter aggregation customers. Accordingly, the proposed rule should be modified in accordance with the solution presented below.

Background

Section 16-107.5 of the PUA governs net electricity metering. This Section was first added to the PUA in 2007, by Public Act ("PA") 95-0420, and the ICC subsequently adopted rules implementing this statutory section. At the time the ICC adopted the current version of Part 465, it rejected arguments that would require an electric provider to consider individual requests for meter aggregation, based upon its interpretation of Section 16-107.5(l). (See ICC Docket No. 07-0483, Second Notice Order, p. 12 (Mar. 19, 2008)). Since that time, the General Assembly has amended Section 16-107.5 three times, PA 97-0616, PA 97-0646 and PA 97-0824. In those three instances, the General Assembly did not revise the language of Section 16-107.5(l).

Meter Aggregation

The following summarizes the meter aggregation concept:

¹ The ICC entered its Second Notice Order adopting proposed amendments to its Net Metering Rule on November 12, 2015.

- Meter aggregation would allow participants to install a renewable electrical generation facility ("renewable facility") that feeds onto the electrical grid and sign-up subscribers for the facility's output.
- An electric utility then allocates credits to the participating customers that offset the cost of electricity including delivery, energy, capacity and transmission.
- The result is that solar generators get "paid" a full retail price – including amounts for delivery, transmission and capacity that they are not providing – for the energy they put on the grid.
- Under meter aggregation the renewable facility does not directly flow to any of the participants' meters as these facilities are not on their property behind their meter.
- Meter aggregation participants utilize the delivery service system for all their electricity consumption, yet would also receive credits to offset the cost of that delivery service.
- The amount that customers are paid is the same regardless of where the generation is placed on the grid and therefore the customer is indifferent as to whether the generation is providing a benefit or cost to the grid.

The ICC's Proposed Meter Aggregation Rule is Contrary to the PUA and is Inequitable

Section 16-107.5(l) of the PUA addresses meter aggregation, as it relates to net electricity metering. Specifically, it provides in pertinent part:

(l) Notwithstanding the definition of "eligible customer" in item (i) of subsection (b) of this Section, **each electricity provider shall consider whether to allow meter aggregation for the purposes of net metering on:**

(1) properties owned or leased by multiple customers that contribute to the operation of an eligible renewable electrical generating facility, such as a community-owned wind project, a community-owned biomass project, a community-owned solar project, or a community methane digester processing livestock waste from multiple sources; and

(2) individual units, apartments, or properties owned or leased by multiple customers and collectively served by a common eligible renewable electrical generating facility, such as an apartment building served by photovoltaic panels on the roof.

220 ILCS 5/16-107.5(l)(emphasis added).

Section 16-107.5(b)(ii) states that "electricity provider means an electric utility or alternative retail electric supplier." 220 ILCS 5/16-107.5(b)(ii).

Section 16-107.5(l) clearly and unambiguously allows "each electricity provider," to consider meter aggregation. The ICC's proposed rule however ignores this and substitutes "electricity provider" with "electricity supplier" leaving the determination "to allow meter aggregation...exclusively to electricity suppliers." ICC Second Notice Order at 41. This substitution removes the electric utility's ability to consider of meter aggregation and would obligate an electric utility to provide delivery service credits to an ARES' meter aggregation customers, if that ARES chooses to offer meter aggregation. Providing delivery service credits would subsidize meter aggregation customers – hence, non-meter aggregation customers would pay for this unfair subsidy through higher delivery service rates.

Concerning the subsidy question, unlike a typical net metering customer, a customer that is part of a meter aggregation arrangement would continue to need the electricity distribution system to receive electricity at their meter. That is because such a customer does not have generation on their property.

Thus, the electricity that the customer consumes utilizes the utility's delivery service system to get to the customer. Consequently, there is no reasonable basis to offer such a customer a credit for "avoided" delivery service use, as the customer does not avoid using the delivery service system under a meter aggregation arrangement.

In support of its proposal, the ICC explains that the meter aggregation determination should be left exclusively to the supplier because the supplier is the party that negotiated the contract with the customer and is the source of the customer's power, not the provider. ICC Second Notice Order at 40-41. This reasoning fails to consider that meter aggregation involves reading customer meters, providing meter data to electricity suppliers, and determining delivery service credits for participating accounts. Once customer accounts are identified by a supplier, these actions must be undertaken by the electric utility. A meter aggregation decision based solely on supplier side considerations is inconsistent with the nature and substance of meter aggregation. A supplier neither has knowledge of nor bears any of the implementation costs that are incurred by the electric utility when a supplier approves meter aggregation. Moreover, an individual supplier should not have the unilateral power to compel all other retail customers to subsidize its aggregated group of customers. Yet, that is exactly what will occur if an individual supplier can initiate a meter aggregation program and thereby force ComEd to provide delivery credits to the suppliers' customers. These delivery credits will be paid for all other retail customers. Such a result is blatantly unfair.

Solution

ComEd proposes the following amendments to the ICC's proposed Part 465.90 that are consistent with Section 16-107.5(l). Under these amendments "each electricity provider" would separately consider meter aggregation and meter aggregation for the purposes of net metering could only occur if "each electricity provider" allows meter aggregation. The amendments are as follows:

Section 465.90 Meter Aggregation

- a) Electricity ~~suppliers~~ providers shall separately consider each application for meter aggregation for the purposes of net metering and shall determine whether to allow meter aggregation for purposes of net metering on the basis of the facts and circumstances presented in each application.
- b) Whenever an electricity ~~supplier~~ provider determines that it will not allow meter aggregation for the purposes of net metering, the electricity ~~supplier~~ provider shall provide an explanation of its determination, based on the facts and circumstances presented in the application, in a written document simultaneously filed with the Chief Clerk of the Commission and provided to the applicant, within 30 days after receiving the application.
- c) If either an electric utility or an alternative retail electric supplier determines that it will not allow meter aggregation for the purposes of net metering, the application shall be denied.

Alternative Solution

Section 16-107.5(l) clearly and unambiguously allows "each electricity provider," to consider meter aggregation. If the Joint Committee of Administrative Rules seeks to allow individual suppliers to offer meter aggregation without approval from the electric utility serving

the customer, allowing "each electricity provider," to consider meter aggregation based on the actual services it provides to the customer is the only reasonable alternative. A supplier's decision to offer meter aggregation on the supply side should not, without corresponding approval of the application, place obligations such as providing delivery service credits on the electric utility. The amendments below would retain the statutory right of "each electric provider" to consider meter aggregation by ensuring that electric providers can only provide credits for the services it provides to the individual customer. Under the amendments presented below, suppliers would "consider" providing supply credits while electric utilities would "consider" providing delivery service credits.

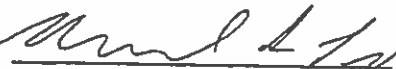
Section 465.90 Meter Aggregation

- a) Electricity suppliers providers shall separately consider each application for meter aggregation for the purposes of net metering and shall determine whether to allow meter aggregation for purposes of net metering on the basis of the facts and circumstances presented in each application. The consideration of an electricity supplier to provide meter aggregation service does not obligate the electric utility to provide such service and does not obligate the electric utility to provide any additional services to such electricity provider.
- b) Whenever an electricity supplier provider determines that it will not allow meter aggregation for the purposes of net metering, the electricity supplier provider shall provide an explanation of its determination, based on the facts and circumstances presented in the application, in a written document simultaneously filed with the Chief Clerk of the Commission and provided to the applicant, within 30 days after receiving the application.
- c) An electric utility is not obligated to provide a delivery service credit to the customers in its service area that are offered meter aggregation by alternative retail electric suppliers.

Section 16-107.5 does not create or reference "electricity supplier" and unambiguously allows "each electricity provider" to consider meter aggregation. The ICC's use of the term "electricity supplier" is unauthorized and its proposal for Section 465.90 should be rejected.

Respectfully Submitted,

Commonwealth Edison Company

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